

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF MIDCOM COMMUNICATIONS, INC.)
FOR APPROVAL OF A TRANSFER OF ASSETS.) CASE NO. 95-322

O R D E R

On July 26, 1995, MIDCOM Communications, Inc. ("MIDCOM") and Telenational Communications Limited Partnership ("Telenational") filed an application pursuant to KRS 278.020(4) and KRS 278.020(5) for approval of a proposed transfer of Telenational's Kentucky business to MIDCOM. On August 29, 1995, the Commission requested additional information necessary to review the application.

On September 15, 1995, the parties moved for an extension of time to respond to the August 29, 1995 Order. The parties also waived the statutorily mandated 60-day period in which the Commission is required to issue a decision pursuant to KRS 278.020(5). The Commission granted the extension of time.

On February 14, 1996, the parties submitted a document, the terms of which indicated that the transfer had been consummated without Commission approval. Accordingly, on April 29, 1996, the Commission ordered MIDCOM and Telenational to appear at a hearing scheduled for June 18, 1996, to show cause why the companies should not be penalized pursuant to KRS 278.990 for the apparent violation of KRS 278.020(4) and KRS 278.020(5). See Case No. 96-174.¹

¹ Case No. 96-174, Investigation of MIDCOM Communications, Inc. and Telenational Communications Limited Partnership, Alleged Failure to Comply with KRS 278.020(4) and KRS 278.020(5).

By letter dated May 22, 1996, MIDCOM and Telenational offered to pay a penalty, stating the parties wished to reach full and expeditious settlement with the Commission regarding any and all actions that could be brought by the Commission arising out of the transaction at issue. The Commission accepted the settlement offer and dismissed the show cause proceeding by Order dated June 7, 1996.

MIDCOM is an authorized carrier in Kentucky and has already been found by the Commission to possess the financial, technical, and managerial abilities to provide reasonable service. See Case No. 92-138.² Furthermore, the information filed by the parties in this case indicates that, except for the legal infirmity caused by the failure to obtain prior Commission approval, this transfer was made "in accordance with law, for a proper purpose and [was] consistent with the public interest." KRS 278.020(5). Consequently, it does not appear that the transfer had any adverse impact on Kentucky customers. In short, the transfer would have been approved had the Commission received the necessary information in a timely fashion. On August 7, 1995, MIDCOM filed an Adoption Notice whereby it adopted Telenational's tariff.

IT IS THEREFORE ORDERED that:

1. This case is hereby dismissed.
2. Within 10 days of the date of this Order, MIDCOM shall, in accordance with 807 KAR 5:011, file in its own name the tariff of Telenational in effect on the date of the transfer and adopted by MIDCOM.

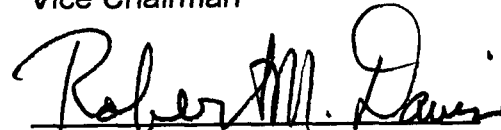
² Case No. 92-138, Application of Mid-Com Communications, Inc. for a Certificate of Public Convenience and Necessity to Operate as a Reseller of Telecommunications Services Within the State of Kentucky.

Done at Frankfort, Kentucky, this 20th day of June, 1996.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director